HIGH COURT OF CHHATTISGARH AT BILASPUR

Before: Hon'ble Shri Justice Dilip Raosaheb Deshmukh

Second Appeal No.48/2003

APPELLANTS DEFENDANTS : Ajuram and others

VERSUS

RESPONDENTS PLAINTIFFS Hathiyarin bai and others

Post for ~~Judgment~~ Order: 24 -07-2007

Sd/-
Dilip Raosaheb Deshmukh
Judge

HIGH COURT OF CHHATTISGARH AT BILASPUR

Single Bench: Hon'ble Shri Dilip Raosaheb Deshmukh, J.

Second Appeal No.48/2003

Appellants Defendants :

1. Ajuram, aged about 22 years, son of Sudharam,
2. Babulal, aged about 23 years, son of Sudharam.
3(a) Mu. Mehatarin aged about 40 years, Wd/o. Sudharam
3(b) Deleted
3(c) Seeta, aged about D/o Sudharam
3(d) Geeta, W/o Dashar, aged about 22 years.

Residence of Lohandangiya, Tah. Nawagarh, (before minor, now major)

3(e) Sukha, wife of Ram Kumar, aged about 25 years, residence of Khera, Tah. Nawagarh, Village-Saraipali, (Previously minor now major)

3(f) Asuwa alias Aswant Kumar, son of Shri Sudharam, aged about 19 years, residence of village- Tohdikampa, Tah. Nawagarh, (Previously minor now major)

4. Chhotku, aged about 32 years, Sumani.
5. Deleted

All are agriculturist, residence of Tohadi, Tah. Bemetara, District Durg (Chhattisgarh)

Versus

Respondents Plaintiffs

1(a) Hathiyarin bai, Wd/o Uderam Kenwat, aged about 60 years, residence of village- Tohdikampa, Tah. Nawagarh, Distt. Durg (CG)

2. Devnath, son of Ramprasad, aged about 45 years.
3. Ghurauram, son of Indal, alias Banwali, aged about 28 years.

4. Narottam Prasad, son of Indal, alias Banwali, aged about 25 years.

All are residence of village Tohdikampa, Tah. Bemetara, Distt. Durg (MP)

5. Birjhabai, aged about 35 years, wife of Paltu, residence of Lamti, Tash. Balodabazar, Distt. Raipur.

6(a) Rameshwar, son of Bisoha Kenwat, residence of village Tore, P.O. Tore, P.S. Dharsinwa, Distt. Raipur (CG)

6(b) Balla, son of Bisoha Kenwat, residence of village Tore, P.O. Tore, P.S. Dharsinwa, Distt. Raipur (MP)

6(c) Gotarhinbai, wife of Shiv caste-Kenwat, residence of Manhora, P.S. Simga, Tah. Simga, District Raipur (MP)

6(d) Panna, son of Bisoha Kenwat, residence of village Tore, P.O. Tore, P.S. Dharsinwa, Distt. Raipur (MP)

7. State of Chhattisgarh, through: Collector, District Durg (C.G.)

Second Appeal under Section 100 of Civil Procedure Code, 1908.

Present:-
Shri P.P. Sahu, counsel for the appellants.
Shri Kunal Das, counsel for the respondent No.4.
Shri Akhil Agrawal, P.L. for the State/respondent No.7.

ORDER

(Passed on 24-07-2007)

Shri P.P. Sahu, learned counsel for the appellants/defendants was heard on admission.

(2) The appellants/defendants are aggrieved by the judgment dated 09-10-2002 delivered in Civil Appeal No.159-A/2002 by the Additional District Judge, Bemetara whereby the defendants appeal was dismissed while affirming the judgment and decree passed by the Civil Judge, Class-I, Bemetara in Civil Suit No. 126-A/1982 vide judgment dated 9.4.1984 granting decree of possession and mesne profits in favour of the respondents/plaintiffs.

(3). Both the Courts below have recorded a concurrent finding that Budan was in exclusive possession of the suit land. This also finds support from the testimony of Bisahat, defendant's witness No. 4 in para 4. A concurrent finding has been recorded that Budan and his wife Kunwar Bai had transferred the suit land by two sale deeds dated 30-4-1974 to plaintiff-Narbadiya Bai and had delivered possession. Both Courts below have recorded a concurrent finding that Budan did not execute Ekrarnama Ex. P-1 in favour of Sudha Ram. It is not in dispute that Sudha Ram did not file any suit for specific performance of contract, if any.

(4) The concurrent findings of fact recorded by both the Courts below are based on proper appreciation of evidence oral as well as documentary. No substantial question of law arises for determination in this appeal. The appeal is accordingly dismissed at the stage of admission.

(5) In view of above, I.A. No. 2171/2003 which is an application for condonation of delay in payment of P.F., M.(C).P. No. 814/2004 for continuation of interim order, M.(C).P. No. 1446/2005, application for grant of stay under Order 41 Rule 5 of C.P.C., and I.A. No. 2995/2003 stand dismissed.

Sd/-
Dilip Raosaheb Deshmukh
Judge

Tumane